

REMARKS

This Amendment is submitted in response to the outstanding Office Action wherein the Examiner withdrew the previous rejections over Hebard and Greiman and indicated that claims 4, 10 and 11 contain allowable subject matter. This indication of allowable subject matter and withdrawal of the previous prior art rejection is noted with appreciation.

The Examiner has also set forth in the form of a final rejection of claims 1-3, 5-9 and 12-17 under 35 U.S.C. §§ 102(e) and 103(a) over the newly cited prior art Dziver, et al. alone or as the principal reference. Reconsideration of the application in view of the amendments presented herewith, the Rule 131 Declaration, and the following remarks is respectfully requested.

The Examiner rejected claims 1-17 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner considered that the amended claims contain subject matter which was not described in the specification. The Examiner also considered that the term “**bearing**” presents new matter. Applicant respectfully traverses this rejection.

Applicant has amended claims 1-17 to replace the term “bearing” with the term “body” and with the term “bushing seal element” as originally presented. None of these amendments are intended to narrow the scope of the claims as they return the claims to the form as originally filed. Thus, no issues of new matter can remain. In view of this, applicant respectfully submits that the rejection under Section 112 is not applicable and should be withdrawn.

Turning to the prior art rejections, the Examiner rejected claims 1, 3, 5, 6, 9 and 13 under 35 U.S.C. § 102(e) as anticipated by Dziver, et al., publication No. 2003/0026718. Claim 2 was rejected under Section 103(a) over Dziver in view of Rinne; claim 7 was rejected over Dziver in view of Zapalac; and claims 8, 12 and 14-17 were rejected under Section 103(a) over Dziver in view of Burgess. All the secondary references were cited in the previous Office Action.

This application was filed on January 23, 2002. The Dziver publication was published on February 6, 2003 based on an application filed on June 13, 2002, subsequent to applicant’s filing date. Dziver does claim priority of a provisional application filed on June 13, 2001 – just over six months prior to applicant’s filing date. Thus, the earliest effective date of Dziver as a reference is June 13, 2001.

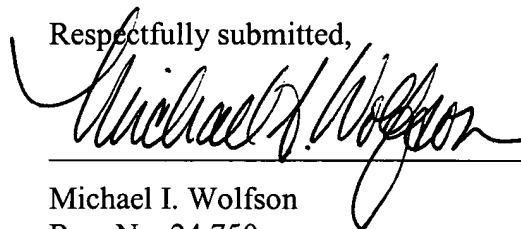
In view of this, applicant has investigated his completion of the invention as claimed and determined that he reduced the invention to practice prior to June 13, 2001. In support of this, applicant has prepared the enclosed Declaration of Mark R. Wilkinson under Rule 131.

The Examiner is respectfully requested to enter this Amendment and the Declaration of Mark R. Wilkinson Under Rule 131. The Declaration by Applicant establishes completion of the invention as claimed prior to June 13, 2001. It is respectfully submitted that upon entry of the Declaration, Dziver is no longer an effective reference against the application and should be withdrawn. As all the rejections are based on Dziver, withdrawal will place the application in condition for immediate allowance. This Amendment and Declaration could not have been submitted earlier as the Dziver reference was newly cited by the Examiner in the outstanding Office Action setting forth the final rejection. Thus, the Declaration swearing behind the reference was not called for earlier.

In view of the amendments presented herewith and the Declaration under 37 C.F.R. §1.131 showing completion of the invention prior to the earliest possible effective date of the Dziver reference, applicant respectfully submits that claims 1-17, all the claims now in the application, are indeed patentable and in condition for immediate allowance. Accordingly, entry of the Amendment is respectfully requested in order to place the application in condition for immediate allowance. If upon review of the Amendment, the Examiner is unable to issue an immediate Notice of Allowance, the Examiner is respectfully requested to enter the Amendment to place the application in better condition for appeal. In the case of this latter contingency, the Examiner is respectfully request to telephone the undersigned attorney with a view towards resolving the outstanding issues.

Early and favorable action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael I. Wolfson", is written over a horizontal line.

Michael I. Wolfson
Reg. No. 24,750
Attorney for Applicant
REED SMITH LLP
599 Lexington Avenue
New York, New York 10022
(212) 521-5400